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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 7th November 2013

No. 12826—IR(I.D.)-5/2012-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 8th October 2013 in Industrial Dispute Case No. 04/2012 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s. BPTCL & Dream Team Sahara, Bhubaneswar and their Workman Shri Sanjib Kumar Behera was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 4 OF 2012

Dated the 8th October 2013

Present :

Shri P. K. Ray, o. s. J. S.(Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

The Management of .. First Party—Management
the Chief Executive Officer,
M/s. BPTCL & DreamTeam Sahara,
2nd & 3rd Floor, Plot No. N-5/538,
IRC Village (SBI Building), Nayapalli,
Bhubaneswar.

And

Its Workman,
 Shri Sanjib Kumar Behera, . . . Second Party—Workman
 At Qrs. No VR-5/1,
 Kharvela Nagar, Unit-3,
 Bhubaneswar.

Appearances :

Shri N. C. Pal, Executive	..	For the First Party Management
Shri S. Behera, Authorised Rept.	..	For the Second Party Workman

AWARD

This case has been instituted u/s 10(1) (d) of the Industrial Disputes Act, 1947(for short, the Act) on a reference made by the Labour & ESI Department of the Government of Odisha u/s 12(5) of the Act vide its letter No. 1329—IR (ID)-05/12-LE, dated the 22nd February 2012 with the following schedule:—

"Whether the action of the management of M/s. BPTCL & DreamTeam Sahara, Bhubaneswar in terminating the services of Shri Sanjib Kumar Behera, Squad Workman, w.e.f., the 10th February 2011 without following either the principles of natural justice or complying provision under Section 25-G of the ID Act, 1947 is legal and/or justified ? If not, what relief Shri Behera is entitled to ?"

2. The case of the second party workman is that he being selected by the first party management joined as a Squad Workman, w.e.f., the 6th October 2010 with a monthly remuneration of Rs. 4,500. As the first party management violating the terms and service conditions engaged the workers for 14 to 16 hours without overtime wages and adopted various unfair labour practices unrest developed amongst the workmen and they submitting a 13 point charter of demands went on strike on the 10th February 2011. As the workman formed a Trade Union and the present second party workman took active part in the said Union, the first party management refused him employment, w.e.f., the 10th February 2011 without any reason and issued termination letter, dated the 17th February 2011 which was received by him on the 19th February 2011 in gross violation of the principles of natural justice. Since the aforesaid termination is contrary to the provisions of Section 25-F, 25-G and 33(2)(a) of the Industrial Disputes Act, 1947, he raised the dispute.

3. The first party management in its written statement refuting the allegation that the service of the second party workman has been terminated in violation of the provisions of the Industrial Disputes Act and the principles of natural justice has stated that since the date of his appointment on the 6th October 2010 as a Ticket Cheecking Squad he was involved in anti-organizational activity and connived with the Conductor for pilferage of revenue. Even he left the organisation without any intimation and did not join in spite of repeated telephonic instructions. Since he was appointed on probation and his performance was unsatisfactory his service has been terminated. Hence, it has prayed for dismissal of the claim of the second party workman.

4. In the aforesaid premises, the issues framed are as follows :—

ISSUES

- (i) "whether the action of the management of M/s. BPTCL & DreamTeam Sahara, Bhubaneswar in terminating the services of Shri Sanjib Kumar Behera, Squad Workman with effect from the 10th February 2011 without following either the principles of natural justice or complying the provision under Section 25-G of I. D. Act, 1947 is legal and/or justified ?
- (ii) If not, what relief Shri Behera is entitled to ?
- (iii) Whether the second party workman has voluntarily abandoned the service ?"

5. In order to substantiate their respective case, while the second party workman examined himself and filed documents marked Exts. 1 to 6, the first party management examined one witness and filed documents marked Exts. A & B.

FINDINGS

6. *Issue Nos. (i)&(iii)*—The appointment letter, Ext. 1 filed by the second party workman shows that he was appointed on probation and joined with effect from the 6th October 2010. Ext. 3, the termination letter dated the 17th February 2011 reveals that his service has been terminated with immediate effect. The second party workman has therefore, worked for a period of 121 days. In the case of Om Prakash Mann Vrs. Director of Education(BASIC) and others, reported in AIR 2006(SC)3096, the Hon'ble Supreme Court has clearly held that *if a probationer is dismissed or terminated during the period of probation no opportunity is required to be given. Therefore, the question of violation of the principle of natural justice does not arise*. In view of the principle decided by the Hon'ble Supreme Court the second party workman has got no claim for his reinstatement in service or any compensation. In view of the clear legal position and the undisputed factual aspects there is no necessity to discuss any other points as raised by the second party workman.

7. *Issue No. (ii)*—In view of the findings arrived at on Issue Nos. (i) and (iii), the second party workman is not entitled to any relief.

Dictated and corrected by me

P. K. RAY
8-10-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. K. RAY
8-10-2013
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor
J. DALANAYAK
Under-Secretary to Government